

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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LYNX SYSTEM DEVELOPERS, INC. and  
ISOLYNX, LLC,

Plaintiff,

v.

ZEBRA ENTERPRISE SOLUTIONS  
CORPORATION, ZEBRA  
TECHNOLOGIES CORPORATION, and  
ZIH CORP.,

Defendant.

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**Civil Action No. 1:15-cv-12297-GAO**

**DEFENDANTS' ASSENTED-TO MOTION FOR  
IMPOUNDMENT OF CONFIDENTIAL INFORMATION**

Pursuant to Local Rules 7.1 and 7.2 of the United States District Court for the District of Massachusetts and the Joint Amended Protective Order (Dkt. No. 96), Defendants Zebra Enterprise Solutions Corporation, Zebra Technologies Corporation, and ZIH Corp. (collectively, “Zebra” or “Defendants”), respectfully request leave to file under seal Zebra’s Opposition to Plaintiffs’ Motion for Sanctions Against Defendants Under Fed. R. Civ. P. 37, 28 U.S.C. § 1927, and the Court’s Inherent Authority, and for *In-Camera* Review Under the Joint Amended Protective Order (“Motion for Sanctions”), the Declaration of Jill Stelfox in Support of Zebra’s Opposition to Plaintiffs’ Motion for Sanctions (“Stelfox Declaration”), and Exhibits 1-13, 15-21, and 23-29 to the Declaration of Adam R. Alper in Support of Defendants’ Opposition to Plaintiffs’ Motion for Sanctions (the “Alper Declaration”).

The grounds for this motion are as follows:

1. Defendants’ Opposition to Plaintiffs’ Motion for Sanctions contains and references material designated by the parties as “CONFIDENTIAL” and “HIGHLY

CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

2. The Stelfox Declaration references material designated by the parties as “CONFIDENTIAL” and “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

3. Exhibit 1 to the Alper Declaration is a July 7, 2017 email from A. LaValley to E. Cheng, which references material designated by Plaintiffs and Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

4. Exhibit 2 to the Alper Declaration is an August 17, 2017 email from A. LaValley to E. Cheng, which references material designated by Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

5. Exhibit 3 to the Alper Declaration is a November 13, 2017 letter from A. LaValley to S. Lotfollahi, which references material designated by Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

6. Exhibit 4 to the Alper Declaration is a January 23, 2018 email from A. LaValley to S. Lotfollahi and B. Yaghoubian, which references material designated by Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

7. Exhibit 5 to the Alper Declaration is a May 19, 2016 email from D. Sheikh to Defendants’ counsel, which references material designated by Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

8. Exhibit 6 to the Alper Declaration is Attachment 1 to Plaintiffs’ May 13, 2016 Response to Defendant’s Interrogatory No. 1, which contains material designated by Plaintiffs as

“HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

9. Exhibit 7 to the Alper Declaration is a November 21, 2017 letter from E. Cheng to R. Megley, which contains material designated by Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

10. Exhibit 8 to the Alper Declaration is a January 26, 2018 email from B. Haan to A. Alper, which references material designated by Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

11. Exhibit 9 to the Alper Declaration is a March 29, 2018 letter from A. LaValley to A. Porcelli, which references material designated by Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

12. Exhibit 10 to the Alper Declaration is the transcript from the April 11, 2018 Status Conference in this case, which contains and references material designated by Plaintiffs and Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

13. Exhibit 11 to the Alper Declaration is a February 13, 2018 letter from E. Cheng to Plaintiffs’ counsel, which contains and references material designated by Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

14. Exhibit 12 to the Alper Declaration is a document produced by Defendants bearing the Bates number ZEBLY0109082, which has been designated by Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

15. Exhibit 13 to the Alper Declaration is a document produced by Defendants bearing the Bates number ZEBLY0109091, which has been designated by Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

16. Exhibit 15 to the Alper Declaration is a document produced by Defendants bearing the Bates number ZEBLY0005604, which has been designated by Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

17. Exhibit 16 to the Alper Declaration is a document produced by Defendants bearing the Bates number ZEBLY0094539, which has been designated by Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

18. Exhibit 17 to the Alper Declaration is a document produced by Defendants bearing the Bates number ZEBLY0113028, which has been designated by Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

19. Exhibit 18 to the Alper Declaration is a document produced by Plaintiffs bearing the Bates number LYNX0018285, which has been designated by Plaintiffs as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

20. Exhibit 19 to the Alper Declaration is an October 23, 2017 letter from E. Cheng to Plaintiffs’ counsel, which references material designated by Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

21. Exhibit 20 to the Alper Declaration is a December 21, 2017 email from A. LaValley to Defendants’ counsel, which references material designated by Plaintiffs as

“HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

22. Exhibit 21 to the Alper Declaration is an April 12, 2018 letter from R. Megley to N. Gambhir, which references material designated by Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

23. Exhibit 23 to the Alper Declaration is a February 9, 2018 subpoena from Plaintiffs to NFL Enterprises LLC, which references material designated by Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

24. Exhibit 24 to the Alper Declaration is a December 29, 2017 email from A. LaValley to Defendants’ counsel, which contains and references material designated by Plaintiffs as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

25. Exhibit 25 to the Alper Declaration is a February 14, 2018 email from B. Yaghoubian to B. Haan, which references material designated by Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

26. Exhibit 26 to the Alper Declaration is a December 5, 2017 email from B. Yaghoubian to A. LaValley, which references material designated by Plaintiffs and Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

27. Exhibit 27 to the Alper Declaration is a January 13, 2018 email from A. Alper to A. LaValley and D. Sheikh, which references material designated by Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

28. Exhibit 28 to the Alper Declaration is a November 3, 2017 email from A. LaValley to E. Cheng, which references material designated by Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

29. Exhibit 29 to the Alper Declaration is a February 15, 2017 email from R. Megley to E. Cheng, which references material designated by Defendants as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” pursuant to the parties’ Joint Amended Protective Order (Dkt. No. 96 at 2–3).

In compliance with Local Rule 7.1(a)(2), counsel for Defendants conferred in good faith with counsel for Plaintiffs in an effort to narrow or resolve the issues in this motion, and counsel for Plaintiffs stated that Plaintiffs do not oppose this motion.

WHEREFORE, Zebra respectfully requests that Defendants’ Opposition to Plaintiffs’ Motion for Sanctions, the Stelfox Declaration, and Exhibits 1-13, 15-21, and 23-29 to the Alper Declaration be impounded until further order of the Court. Upon termination of the impoundment period, Defendants will retrieve and take custody of the impounded documents.

Dated: April 18, 2018

Respectfully submitted,

DEFENDANTS ZEBRA ENTERPRISE  
SOLUTIONS CORPORATION,  
ZEBRA TECHNOLOGIES  
CORPORATION and ZIH CORP.

By their attorneys,

/s/ Adam R. Alper  
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**LOCAL RULE 7.1 CERTIFICATION**

I hereby certify that counsel for Zebra conferred in good faith with counsel for Plaintiffs, and counsel for Plaintiffs stated that Plaintiffs do not oppose this motion.

/s/ Adam R. Alper  
Adam R. Alper

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified in the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on April 18, 2018.

/s/ Adam R. Alper  
Adam R. Alper